

	KANSAS CITY, MO. POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	PROCEDURAL INSTRUCTION	12-31-15	12-31-15	15-12
SUBJECT			AMENDS	
Response to Community Complaints				
REFERENCE PPBM: Internal Affairs Investigations, Grievance Review Process, & Disciplinary Actions Missouri Revised Statutes: Chapter 610, and Section 84.430 Memorandum of Agreements (MOA) between the Board of Police Commissioners (Board) and the Fraternal Order of Police (FOP) Lodges No. 99 & 102			RESCINDS Procedural Instruction 04-9, 04-9A, & 04-9C	

I. INTRODUCTION

- A. The purpose of this written directive is to provide guidelines and procedures for reviewing and processing community complaints made by individuals against members of the Kansas City Missouri Police Department (Department) and allow for solutions for those individuals and members of the Department when addressing complaints.
- B. The Department takes seriously the complaints and comments of the residents of Kansas City, Missouri and those visiting the city.
- C. Members will not interfere with, discourage, or delay the making of any complaint or the investigation thereof.

II. GENERAL GUIDELINES

- A. The Office of Community Complaints (OCC), under the authority of the Board of Police Commissioners (Board), assists the Board in carrying out its duties and responsibilities as an oversight agency under the provisions of the Missouri Revised Statutes, Section 84.430. As a separate entity from the Department, members and citizens should refer directly to OCC for their processes and procedures.
- B. Members should refer to the current Memorandums of Agreement between the Board and the Fraternal Order of Police Lodges 99 and 102 for additional information.
- C. The Department will:
 1. Receive, review and forward to the OCC those complaints made at any police facility as outlined in this written directive.
 2. Investigate complaints referred by OCC to the Internal Affairs Unit (IAU).
 3. Process all complaints in a timely and impartial manner.

- D. Members will:
1. Identify themselves by name and identifying number, i.e., badge or serial number, when requested to do so by any individual.
 2. Be provided an opportunity to respond to the allegations of any complaint.
 3. Refrain from any unnecessary contact with any individual(s) who files a complaint against the member.
- E. The use of recording devices, cellular phones, or any technical devices capable of recording, imaging, or photographing is prohibited by members, individuals or complainants, or third party representatives throughout this process. This includes but is not limited to formal statements and review of completed complaint files.
- F. The Chief of Police (Chief) is the final authority to impose discipline for incidents involving formal complaints referred by OCC.

III. PROCEDURES

- A. Receiving complaints in person at a police facility.
1. Complaints may be made by:
 - a. Any individual seventeen (17) years of age or older who was personally involved in the incident that gives rise to the complaint.
 - b. Any individual under the age of seventeen (17) who provides documentation indicating they are a certified juvenile (certified by the court as an adult).
 - c. The parent or legal guardian of any individual under the age of seventeen (17) years who was involved in the incident that gives rise to the complaint. The parent or legal guardian:
 - (1) Must accompany the individual under seventeen (17), and
 - (2) Will be listed as a co-complainant, and
 - (3) Must sign the Complaint Report Form, 337 P.D. (Complaint Form).
 2. A complaint will be accepted at any police facility regardless of the location of the occurrence or the subject member's assignment.

3. Completion of the Complaint Form
 - a. The complaint process will be initiated by the completion of the Complaint Form by the complainant, guardian, or advocate for the complainant.
 - (1) The Complaint Form is available on-line for individuals to complete and mail to the OCC Office. This on-line form will not need to be notarized.
 - (2) If the Complaint Form is completed in paper form, it must be signed and verified by the oath of the complainant as set forth in the Missouri Revised Statutes, Section 84.430.1. Unverified complaints not completed on-line (in paper form) will not be investigated. If the complainant refuses to sign the Complaint Form:
 - (a) The commander or supervisor will enter "refused to sign" on the complainant's signature line.
 - (b) A copy of the form will be forwarded to OCC for follow-up with the complainant. If the complainant continues to refuse to sign the Complaint Form, the OCC file will be closed.
 - b. The complainant must describe, to the best of their ability, the date, time and location of the occurrence, giving rise to the complaint.
4. If the complainant is unable to complete a report at the police facility, they may take the form with them to be completed and submitted to any police station or approved location listed on OCC's website.
5. If it appears that the complainant is under the influence of an intoxicant/drug, suffering from a mental disorder, or exhibits any other behavior or condition bearing on the complainant's credibility:
 - a. The member receiving the complaint will note these conditions on a separate sheet of paper (preferably on the Form 11 P.D.).
 - b. The member receiving the complaint will describe facts that bear upon a complainant's demeanor or ability to accurately recall and recite events, such as physical signs of being impaired by the consumption of alcohol (glassy eyes) or illegal narcotic use (an odor of marijuana).

- c. Members will also describe the complainant's physical condition that bears upon the complaint, including visible marks or injuries.
 - d. Statements noted on a separate sheet of paper:
 - (1) Will be made only after the complainant has signed the Complaint Form. All such remarks and statements will be followed by the signature of the member making the notations.
 - (2) The separate sheet of paper will be attached to the original Complaint Form and forwarded to OCC. The copy of the Complaint Form given to the complainant will not contain the receiving member's observations.
6. Once the Complaint Form has been completed, a commander or supervisor will interview the complainant in an attempt to determine if the complaint can be resolved without a formal investigation.
- a. If the complaint is resolved to the satisfaction of the complainant:
 - (1) A Resolved Complaint Form, Form 337A P.D. (Resolved Complaint Form) will be provided for completion and obtained from the complainant.
 - (2) A copy of the Complaint Form and the Resolved Complaint Form will then be forwarded to OCC.
 - b. If the complaint is not resolved by a commander or supervisor, as outlined above:
 - (1) The commander or supervisor reviewing the Complaint Form will initial the form indicating that all information has been filled out and the form is complete.
 - (2) The original Complaint Form will be placed in a sealed interdepartment envelope and immediately forwarded to OCC.
 - (3) A copy of the Complaint Form will be given to the complainant.

7. The member receiving a complaint will immediately send an email to the OCC mailbox (communitycomplaints@kcpd.org) and provide the following information:
 - a. The name, rank, serial and/or badge number, and element of assignment of the member about whom the complaint was filed, if identified.
 - b. The date and time the complaint was received.
 - c. The name, address, and contact number of the complainant.
 - d. The name, rank, and element of the member receiving the complaint.
 8. Photographs will be taken by the member receiving the complaint when injuries are alleged to have been caused by a Department member. A photograph of the complainant's face will also be taken.
 - a. When photographs are taken, the name of the complainant, date, time, location, and photographer's name must be noted on the bottom portion of the Complaint Form.
 - b. All photographs or digital photo files will be forwarded to OCC along with the Complaint Form. Digital photographs are preferred and can be e-mailed to communitycomplaints@kcpd.org or printed and submitted with the Complaint Form.
- B. Complaint Forms received via mail at a police facility will be immediately forwarded via interdepartmental mail to OCC for processing.
- C. Formal complaints will not be accepted by telephone. Persons contacting a police facility by telephone wishing to make a formal complaint will be advised:
1. To go to an any police station or approved location as listed on OCC's website to complete and submit the complaint, or
 2. To access the Complaint Form through OCC's website and:
 - a. Mail the completed form to the OCC office, or
 - b. Submit the completed form electronically to communitycomplaints@kcpd.org.

D. Anonymous, Unsigned, and Unverified Complaints

1. All anonymous, unsigned, and unverified complaints will be accepted and retained by OCC for statistical purposes.
2. OCC may refer any complaint with specific information that identifies incidents or trends to the Chief of Police, who may order an internal investigation of the matter or take such other action as the Chief of Police believes appropriate.

E. Processing the Complaint

1. Once the original Complaint Form has been forwarded to OCC, OCC may attempt to resolve the complaint without formal investigation.
2. If resolution does not appear possible:
 - a. A copy of the original signed Complaint Form and any related documentation will be forwarded to IAU.
 - b. IAU will conduct the investigation to include the formal statement portion of the complaint process. Members should refer to the current written directive entitled, "Internal Affairs Investigations," for further information.

F. Formal Statements

1. Complainant Statement
 - a. All complainants who participate in the investigative process will be given the opportunity to give a formal statement.
 - (1) A member of OCC may be present at the request of the complainant, solely as a monitor, during the taking of the complainant's formal statement by IAU.
 - (2) The OCC member may also be present at the taking of any supplemental statement by IAU.
 - b. In the event the complainant indicates to IAU personnel that they no longer want to continue with the complaint, IAU personnel will request the complainant respond to OCC to complete and sign a Withdrawal of Complaint, Form 5489 P.D.
 - (1) The complainant will not be encouraged or discouraged in any manner in making a decision.

- (2) If the complainant completes and signs a Withdrawal of Complaint Form, OCC shall close the file.
 - (3) In instances with co-complainants, all complainants must sign the Withdrawal of Complaint Form to be considered for closure.
- c. If the complainant fails to keep the initial appointment for a formal statement and fails to respond to reasonable efforts to reschedule the appointment, the complaint file will be returned to OCC and may be closed.
- d. If IAU reasonably believes there has been no clear violation of department policy based on the complainant's statement:
 - (1) IAU should immediately forward the file, accompanied by a memorandum requesting consideration for closure to OCC for review.
 - (2) If OCC reviews the file and determines there is no violation of department policy, an appropriate finding will be made by OCC and the complaint file will be closed.
 - (3) If OCC determines that further investigation is required, the investigation will continue. The justification for continuing the investigation will be set out in a memorandum that will be placed in the case file, and the file will be forwarded to the commander of IAU for further investigation.

2. Member Statement

- a. Members will be notified in writing via the chain of command that a complaint has been filed against them at least ten (10) days prior to giving a formal statement. The member may not receive any other information other than a copy of the Complaint Form prior to the taking of the member's formal statement.
- b. The member is allowed representation during their formal statement. The representative will not be allowed to interfere with or disrupt the process.

3. The IAU Supervisor will:

- a. Assign the file to a detective to complete the investigation.
- b. Review the file after the initial formal statement is taken from the complainant.

- c. Determine the necessity for additional investigation to obtain a full, complete, and fair report of the incident.
- 4. If there is a disagreement between the commander of IAU and the OCC Executive Director (Director) as to the subject matter and scope of an investigation:
 - a. The matter will be referred to the Board, who shall have the power to resolve such disagreements.
 - b. The decision of the Board on issues related to the subject matter and scope of an investigation shall be final.

G. Polygraph Examinations

- 1. Members will not generally be required to submit to a polygraph examination as part of the investigation of a complaint unless:
 - a. The complainant first submits to a polygraph examination and in the professional opinion of the polygrapher the complainant is found to have passed the examination, and
 - b. Other reasonable factors, including but not limited to; material inconsistencies or statements of other witnesses, exist in support of the polygraph examination.
- 2. In the event that a polygraph examination of a complainant supports the complainant's allegations:
 - a. With the complaint file, OCC may recommend to the Chief that the member, who is the subject of the complaint, submit to a polygraph examination.
 - b. If the Chief agrees with the recommendation, the Chief will direct the member to take a polygraph examination. The member will be provided forty-eight (48) hours' notice prior to the examination.
 - c. If the Chief disagrees with the recommendation, the Chief will advise the Director of the reasons why the Chief disagrees.
 - d. If the Director, after consideration of the Chief's reasons, continues to recommend that the member submit to a polygraph examination, the matter will be referred to the Secretary/Attorney (person appointed by the Board), who shall meet with the Director and the Chief, and shall mediate a resolution of the issue.

3. If a member is directed to submit to a polygraph examination:
 - a. IAU will coordinate with the Polygraph Section to schedule the polygraph examination.
 - b. The Polygraph Section will forward the results to the Chief along with the complaint file.
- H. Upon completion of the investigation, the file will be forwarded to the Director of OCC.
- I. In the event OCC determines additional information is needed, the file will be returned to IAU to obtain the additional information and return to OCC for the completion of a Summary of Analysis.
- J. The Chief and/or Board will be presented with a final copy of the Summary of Analysis and letters from OCC within forty-five (45) calendar days.
 1. A copy will be forwarded to each member of the Board and to the Secretary/Attorney.
 2. A copy of the Summary of Analysis and the original IAU investigative file will be forwarded to the Chief.
- K. Disposition of Complaint
 1. Recommendations
 - a. If the Chief agrees with the recommendation from OCC, the recommendation becomes a final determination.
 - b. If the Chief disagrees with the recommendation from OCC:
 - (1) Within thirty (30) calendar days of receipt of the summary, the Chief will forward written suggestions for the basis of the disagreement to OCC requesting OCC to reconsider their recommendations.
 - (2) If the Director agrees with the recommendation of the Chief, a revised recommendation will be prepared and forwarded to the Chief for his review. If the Chief agrees, the recommendation will become a final determination.
 - (3) If the Director does not agree with the recommendation of the Chief, OCC will forward a copy of the Chief's recommendation to the Secretary/Attorney.

- (a) The Secretary/Attorney will convene a meeting with the Director and the Chief to determine whether reconsideration is appropriate.
 - (b) If the Director agrees that reconsideration is appropriate, OCC will complete and resubmit a revised recommendation to the Chief.
 - (c) If the Chief concurs with the Director, the recommendation will become a final determination.
 - (d) Disagreements not resolved by the Secretary/Attorney will be forwarded to the Board for its determination.
- 2. Members involved in the investigation will be notified by OCC of the final disposition, except in cases where the Board makes the final determination.
- 3. The original internal investigation will be forwarded to IAU by OCC.
- L. Upon receipt of a final sustained complaint, the Chief has the final authority to recommend discipline or training. For further information refer to the current written directives entitled, "Grievance Review Process," and "Disciplinary Actions."
- M. Unless required to do so by law or an authorization is executed by the member, the Department, Board, and OCC shall not release information pertaining to a member of the Department which did not result in formal disciplinary action. This includes requests by any federal, state, private employer, or other person.
- N. Access to completed complaint files.
 - 1. Completed complaint files will be accessible for only the following purposes absent some legal requirement (e.g., a valid subpoena, court order):
 - a. Review for appeals process.
 - b. Civil litigation.
 - c. Performance evaluations.
 - d. Other personnel actions.

2. Only the following individuals will be granted access to completed complaint files:
 - a. Subject member or attorney for the subject member.
 - b. Commanders and supervisors for personnel actions.
 3. During the review of completed complaint files, handwritten notes will be allowed. Such notes shall not be shared or provided in whole or part to any other member.
 4. Open Records.
 - a. A complaint submitted to OCC is deemed an incident report pursuant to Section 610.100.1(4) RSMo., and as such, the “date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident” is an open record available for inspection and copying by members of the public. Requests for copies of the complaint in this instance will be processed by OCC.
 - b. Whether the remainder of an OCC file or an IAU investigation is an open record available for inspection and copying by members of the public depends upon the nature of the allegation and classification of the records under Section 610.021 and 610.100 RSMo. Requests for inspection or copying of such records should be referred to the Office of General Counsel or the Secretary/Attorney for disposition.
- O. The Office of General Counsel will receive copies of the Complaint Forms on a monthly basis from OCC.

Darryl Forté
Chief of Police

Adopted by the Board of Police Commissioners this ____ day of _____, 20__.

Michael Rader
Board President

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